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3 RECORD OF ORAL HEARING  
4 UNITED STATES PATENT AND TRADEMARK OFFICE  
5

6 BEFORE THE BOARD OF PATENT APPEALS  
7 AND INTERFERENCES  
8  
9

10 Ex parte TOMAS ANDREASON  
11

12  
13 Appeal 2009-009070  
14 Application 09/898,480  
15 Technology Center 2600  
16

17  
18 Oral Hearing Held: April 20, 2010  
19  
20

21 Before JOHN C. MARTIN, MAHSHID D. SAADAT, and  
22 CARL W. WHITEHEAD, JR., Administrative Patent Judges.  
23

24  
25 ON BEHALF OF THE APPELLANT:  
26

27  
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1           The above-entitled matter came on for hearing on Tuesday,  
2   April 20, 2010, commencing at 10:14 a.m., at the U.S. Patent and Trademark  
3   Office, 600 Dulany Street, 9th Floor, Hearing Room A, Alexandria,  
4   Virginia, before Jan M. Jablonsky.

5           THE USHER: Calendar Number 50, Mr. Lastova.

6           JUDGE MARTIN: Good morning, Mr. Lastova.

7           MR. LASTOVA: Good morning, Judge Martin.

8           JUDGE MARTIN: Do you have a business card for the  
9   reporter?

10          MR. LASTOVA: I do. Can I approach, please?

11          JUDGE MARTIN: All right.

12          MR. LASTOVA: All right. May I begin?

13          JUDGE MARTIN: Yes, please.

14          MR. LASTOVA: I want to start out by pointing out that the  
15   application was filed in 2001, so I want to make sure we don't take a 2010  
16   perspective on this. We've got a conventional, stationary phone, like a desk  
17   phone. It's easy to use. Many of them, I'm sure, you have these on your  
18   desk. They have big displays, big buttons. The voice quality is pretty good.

19          We all have, these days now, some kind of mobile device, small  
20   displays, little tiny buttons. Sometimes, the voice quality is not so good. So  
21   they have some advantages. The nice thing about the small phone is it's  
22   portable and it's small. And it's light, and so forth. It's got some advantages  
23   and disadvantages.

24          So one of the other problems is we all have lots of passwords.  
25   Well, in this case, unfortunately, if you've got to remember your cell phone  
26   number and your fixed line number, that's a problem as well. So these are a

1 bunch of issues that back in 2001 the inventors were trying to grapple with.  
2 And the technology in independent Claims 1 and 21, which is the  
3 independent claims on appeal, allows a person to use a stationary phone with  
4 a mobile radio to capture the advantages of both of them, while allowing the  
5 convenience of just having one telephone number. So both the mobile and  
6 the stationary phones are involved in communicating the call content,  
7 including speech -- and that's important -- to and from the called person  
8 during the life of the call.

9           So let's take a look at Figure 1, just real quickly, just so we're  
10 all on the same page here. And Figure 1 of the patent application you can  
11 see there. You've got a mobile phone, and then you've also got a fixed  
12 phone. The mobile phone has an ongoing call, and let's say, for example, the  
13 call is going on and we find ourselves in the situation where -- excuse me.  
14 I've lost my train of thought here. Yeah. Go ahead.

15           JUDGE WHITEHEAD: I don't mean to interrupt you, but just  
16 explain to me what the invention is doing. If I'm making a phone call and  
17 I'm using my mobile phone, then I'm contacting my stationary phone via the  
18 blue link? I mean, Bluetooth link.

19           MR. LASTOVA: Right. So what are we doing here now? We  
20 want to have the fixed phone. Right? So I'm actually talking and working  
21 through my fixed phone, right, and the mobile phone is just a conduit. You  
22 can think of it as a Bluetooth pipe. Do you understand what I'm saying  
23 here?

24           JUDGE WHITEHEAD: Yes.

25           MR. LASTOVA: So in other words, what I'm doing now is I'm  
26 able to get the advantage of being able to use the stationary phone, the fixed

1 phone with the big displays, the big keys and so forth. All right? And what  
2 ends up happening is, as I'm speaking into my phone, that voice goes  
3 through my fixed phone and goes through a Bluetooth link from my fixed  
4 phone to the mobile phone. And then the call speech gets routed to the  
5 mobile network. Okay? Does that answer your phone?

6 JUDGE WHITEHEAD: Yes.

7 MR. LASTOVA: I mean that question about the phone?

8 JUDGE WHITEHEAD: Yes.

9 MR. LASTOVA: Yeah, answer your phone. Sorry. Anyway,  
10 so, actually, that's a good place. Let me go right there, and we'll go to Claim  
11 21; and I think it kind of explains, Claim 21, what's going on there. All  
12 right. In Claim 21, right, we communicate via a short-range, wireless  
13 communications link. I gave the example, the Bluetooth. Right? Between  
14 the stationary telephone and the mobile radio telephone where the short-  
15 range wireless communication link is separate from the radio link, the point  
16 there is the Bluetooth link between the stationary phone and the mobile  
17 phone is separate from the radio link from the radio phone out to the bay  
18 station. Those two are separate. Okay.

19 All right. So then we establish a speech channel over the short-  
20 range, wireless communication link, the Bluetooth link in my example. And  
21 that's going to carry speech now. It's carrying speech over the Bluetooth link  
22 and that speech goes on out over the radio channel as well from the mobile  
23 phone to the bay station. Okay? We're going to communicate speech to or  
24 from the stationary telephone terminal. I'm talking through that, over the  
25 mobile radio telephony network via -- that's by way of -- the mobile radio  
26 telephone with another telephone -- that's the called party -- communicating

1 with the radio telephony network. Said communicating speech including  
2 transmitting and receiving speech signals over the speech channel  
3 established over the short range wireless communications link. That's the  
4 Bluetooth link.

5 JUDGE WHITEHEAD: So the mobile phone in the  
6 intermediate.

7 MR. LASTOVA: Yes.

8 JUDGE WHITEHEAD: So I'm sitting at my desk using my  
9 stationary phone.

10 MR. LASTOVA: That's right.

11 JUDGE WHITEHEAD: And then I'm using the mobile  
12 telephone as an intermediate.

13 MR. LASTOVA: That's right.

14 JUDGE MARTIN: Why would I want to do that?

15 MR. LASTOVA: Okay. So why would you want to do that?  
16 One is the fixed phone is not fixed. Right? In other words you could have  
17 another fixed phone, so I could pick up a fixed phone here and I could use  
18 my mobile as the conduit. And I could go out there at the receptionist desk  
19 and I could use that fixed phone, right, and so forth. Right? So I could use  
20 any fixed phone. I have a single telephone number, right, and I can deal  
21 with it that way.

22 Now remember one of the advantages is that I'm using a fixed  
23 phone; and maybe you're very savvy, Judge Whitehead. You know, you  
24 don't mind doing the little things like this. Back in 2001, people were not  
25 really all that comfortable with actually dialing numbers, and so forth and so  
26 on. So the advantages here include just the ease of use. The user interface is

1 a lot better, as well as just having just one telephone number. Now, see,  
2 you're raising your eyebrow, but to me this is a classic case of non-  
3 obviousness. You're saying why would anybody do that, and there are  
4 reasons people want to do this. This actually is a fairly important invention,  
5 believe it or not. And one of the things that goes on here is when we look at  
6 the prior art, the very eyebrow that you raise is the reason why the  
7 Examiner's rejection is not going to bear scrutiny in terms of obviousness.  
8 Okay?

9               So let me get to that, because I think that really highlights the  
10 contrast. If we look at Henon, Henon has a reference here; and, actually, if  
11 you look at Figure 1 of Henon as well, you can see the difference here. And  
12 I can see why it was a little confusing, because the pictures look a little bit  
13 the same, but they're not the same at all. In Henon, the primary reference,  
14 you've got a cell phone. I'm talking on my cell phone. All right. And  
15 Henon says, "You know what? The problem with cell phones is batteries.  
16 They get low and they die."

17               So when they get low and when they die, we want to have a  
18 way to keep that call going rather than say, oh, my battery's dead. I've got to  
19 go find some other phone. He says, "Oh, through a Bluetooth link, I can see  
20 there's a fixed phone over here. I'll have my phone. I'll set up a call transfer.  
21 All right? So, I'll say, Judge, hang on just a second here. We can keep  
22 talking, but I'm going to set up a call transfer. All right? So there's a fixed  
23 phone over here. So my cell phone talks to the fixed phone over here, over  
24 the Bluetooth link, and says, hey, what's your phone number so I can transfer  
25 the call to you. Okay. Well, that's your telephone number? Oh, your

1 telephone number is 212- blah-blah-blah. You can see that in the right-hand  
2 side of the figure.

3 JUDGE WHITEHEAD: Right.

4 MR. LASTOVA: Then my cell phone -- this is all just control  
5 signaling -- says, "Oh, okay. Bay station? Reroute the call now the fixed  
6 phone. Okay? And then the call is transferred." All right? So what ends up  
7 happening is the Bluetooth link is never carrying any speech. The call is  
8 never going between me and the fixed phone. The only thing that's going on  
9 there is which telephone number I need to transfer the call to you.

10 JUDGE WHITEHEAD: I agree, but once the Examiner brings  
11 in Tada with the Bluetooth, having a voice channel; now, wouldn't that be  
12 obvious to modify Henon to include the voice channel?

13 MR. LASTOVA: Okay. All right. Let's talk about it a little  
14 bit. All right. With Tada, Tada talks. Okay, for one, Tada is sort of battery  
15 saving again, just like Henon is. He's trying to figure out a way to kind of  
16 control the page and interval, and so forth and so on. He mentions  
17 Bluetooth. It's true. And it's just a general reference. He talks about having  
18 a synchronous link, you know, or an A-synchronous link. One is for speech.  
19 One is for data. He talks about those, right?

20 JUDGE WHITEHEAD: Right.

21 MR. LASTOVA: Now the problem I have and we point this  
22 out in the Brief, and the first problem that I think I'm having with that is that  
23 we don't really have any evidence at all in Tada that any speech is actually  
24 going over that Bluetooth link. What we have evidence for in Tada is that  
25 there is actually e-mail communications and data transfers. So I am going to  
26 point you guys to column 4, lines 29 through 37. Okay? And there you can



1 see he is talking about the apparatus, and he says it can be a notebook type  
2 of personal computer that can be driven on a battery. All right? And can be  
3 communicated with a portable device such as a portable telephone by  
4 establishing a local link thereto by radio.

5 All right. This radio link is established and a user can remotely  
6 control the PC by using the portable telephone and exchange data such as  
7 mail -- he means e-mail -- and personal information, again some data, with  
8 the PC and the portable telephone. So there's no real teaching, Judge  
9 Whitehead of speech being communicated over here. So, in other words we  
10 are speculating, and it's true. There could be speech that goes over the  
11 Bluetooth channel. Bluetooth allows that to happen. The problem I am  
12 having now is that the Examiner hasn't found a reference that's actually  
13 teaching that. There's no reference here that actually teaches speech being  
14 transferred over the Bluetooth channel as a part of the call.

15 Okay? So here's where we are. Let me summarize. We're  
16 asking for and providing a wire phones telephone number for a call transfer.  
17 That's what we've got in Henon. And in Tada we are exchanging e-mail or  
18 other data. Okay? Over a Bluetooth channel, but it's not establishing the  
19 speech channel of that Bluetooth channel. Neither one is doing that. And  
20 then transmitting and receiving speech channels over that speech channel  
21 and Bluetooth link. All right? Now, what I want to get to right now is in  
22 addition to that feature really being missing, we actually have some indicia  
23 of non-obviousness that it goes to your first question to me, and that is when  
24 you look at Henon, again, and if you were to turn in Henon to column 1,  
25 lines 18 - 21, I really want to put Henon in context. We really need to  
26 understand Henon and Tada in their context. All right? Their complete

context, okay, so it says at line 18: "Nevertheless, those who use cellular telephones often find themselves cut-off or dropped in the middle of a wireless call for any number of reasons, such as battery loss, connection problems or the like. Even when the connection between the cellular telephone and the wire telephone remains in tact, the link quality may remain very poor, for example, as the user moves between cells." Now, that's the very thing that the invention has claimed in Claims 1 and 21 is susceptible to.

If our cellular telephone's battery goes low -- okay -- the link quality goes low. If the battery dies, we lose the call. Okay? So if you were going to modify Henon with Tada and then add on to it, well, let's just say somehow we get speech in there, which I don't know where that comes from. But we throw speech in there. We now have modified Henon in such a way that it's going to directly contradict its primary objective, which is, of course, we don't want to lose the connection and we don't want the battery to run out. And we don't want this poor quality connection. So I think this is a clear teaching away from the combination. I think it also undermines the central purpose of Henon, and, frankly, one of the purposes of Tada: saving battery.

In our invention we're not saving any battery, okay, at all. We're using the cellular telephone's battery. So if we look then in summary we've got missing features and then we've got clear teachings away in the primary reference. So from the standpoint of an obviousness rejection, there's more than one reason I think the rejection should be reversed. So that's my formal presentation. I want to save a little time for questions.

Do you have any other questions about this?

1 JUDGE SAADAT: I don't have any. Thank you.  
2 JUDGE WHITEHEAD: No.  
3 JUDGE MARTIN: No further questions. Thank you.  
4 Whereupon, at 10:27 a.m., the proceedings were concluded.  
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